

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA

FILED

DEC 07 2012

[Signature]
CLERK

BEEF PRODUCTS, INC.,
BPI TECHNOLOGY, INC., and
FREEZING MACHINES, INC.,

Plaintiffs,

v.

AMERICAN BROADCASTING
COMPANIES, INC., ABC NEWS, INC.,
DIANE SAWYER, JIM AVILA, DAVID
KERLEY, GERALD ZIRNSTEIN, CARL
CUSTER, and KIT FOSHEE,

Defendants.

No. 4:12-cv-04183

Hon. Karen E. Schreier

**PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL
UNREDACTED VERSIONS OF PROPOSED SUPPLEMENTAL EXHIBITS TO THEIR
MEMORANDUM IN SUPPORT OF THEIR MOTION TO REMAND**

Plaintiffs Beef Products, Inc. ("BP"), BPI Technology, Inc. ("BPI Tech"), and Freezing Machines, Inc. ("FMI") (collectively, "Plaintiffs"), by and through their attorneys, respectfully move the Court pursuant to Federal Rule of Civil Procedure 5.2 and D.S.D. Civ. Local Rule 7.1A for leave to file under seal unredacted versions of their proposed supplemental exhibits to their Memorandum in Support of Plaintiffs' Motion to Remand (Dkt. 61). In support of this motion, Plaintiffs state as follows:

1. Plaintiffs have filed a contemporaneous motion with the Court for leave to supplement the exhibits to their Memorandum in Support of Plaintiffs' Motion to Remand. For the reasons described in that motion, those exhibits include a December 6, 2012 Supplemental Declaration of Richard Jochum (attached hereto as Exhibit B), which attached redacted versions

of true and correct copies of various written agreements that relate to certain financial arrangements between Plaintiffs referenced in the Complaint and Plaintiffs' briefing on remand.

2. As set forth in the Supplemental Declaration of Richard Jochum, those written agreements between Plaintiffs contain non-public, proprietary and sensitive information about the businesses of all three Plaintiffs. (Ex. B ¶14.) For example, the agreements reference customer information and private financial details of Plaintiffs' businesses. (*Id.*) This information was redacted from the versions of those agreements that Plaintiffs attached in connection with their contemporaneous motion to this Court for leave to supplement the exhibits to their briefing on remand.

3. Plaintiffs routinely take steps to ensure that this confidential and sensitive information is protected and not disclosed to the public. (Ex. B ¶15.) If such disclosure were to occur, it may harm Plaintiffs. (*Id.*) To take steps to ensure the confidentiality of this information, Plaintiffs move for leave to file unredacted versions of the agreements under seal.

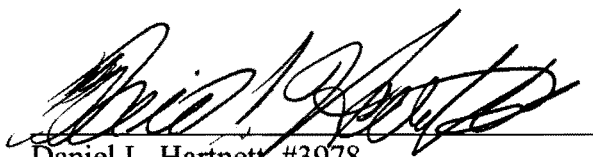
4. This Court may permit documents to be filed under seal when justified. *See Brown Bear v. Cuna Mut. Grp.*, 266 F.R.D. 310, 332 (D.S.D. 2009) (granting motion to file confidential exhibits under seal); *SEC v. Hylland*, No. 07-4058, 2007 WL 20333495, *2 (D.S.D. July 9, 2007) (granting motion to seal documents detailing personal financial information).

5. Plaintiffs have consulted with attorneys for Defendants, and Defendants do not oppose Plaintiffs' request to file unredacted versions of the agreements under seal.

Accordingly, Plaintiffs respectfully request that the Court grant their motion.

Date: December 6, 2012

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Daniel L. Hartnett", is written over a horizontal line.

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CERTIFICATE OF SERVICE

On December 6, 2012, the foregoing was served via U.S. Mail on the following:

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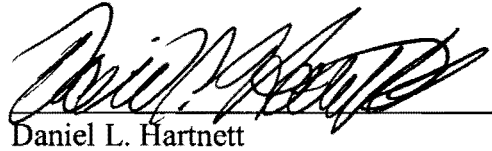
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